

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TERRY L. MCDONALD,

Plaintiff,

v.

FEDERAL EXPRESS
CORPORATION,

Defendant.

Case No. 1:04-CV-582

Hon. Richard Alan Enslen

ORDER

Upon consideration of the responses filed by attorneys Barak J. Babcock and Paul M. Morgan to the Court's Order of June 9, 2005, the Court finds that neither attorney should be sanctioned under Federal Rule of Civil Procedure 11. The attorneys have explained that their filing of a request for admission against a *pro se* party (which would have had the effect of establishing an unlikely receipt date) was for the purpose of jealous advocacy and they took steps other than the filing to attempt to resolve the receipt date. They have also explained that some of their drafting of arguments about the operation of Federal Rule of Civil Procedure 6 was "'inartful'" (Dkt. No. 46, at 5), but corrected by later filings. Suffice it to say, there is enough embarrassment concerning the filings to spread around. Overall, though, the Court believes that Rule 11 sanctions are unwarranted and unnecessary because the process of showing cause has had the desired effect of educating defense counsel.

THEREFORE, IT IS HEREBY ORDERED that the Order to Show Cause of June 9, 2005 is **DISCHARGED**, good cause having been shown.

DATED in Kalamazoo, MI:
August 4, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE